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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/777,761

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Gerald B. Murphy

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MCKEE, VOORHEES & SEASE, P.L.C.

801 GRAND AVENUE

SUITE 3200

DES MOINES, IA 50309-2721

EXAMINER

NAJARIAN, LENA

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/777,761

Applicant(s)

MURPHY, GERALD B.

Examiner

Lena Najarian

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15 and 17-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15 and 17-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20060213.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the request for continued examination (RCE) filed 2/13/06 and the supplemental amendment filed 3/22/06. Claims 15 and 17-29 are pending. Claims 15, 17, 18, and 24 have been amended. Claims 1-14 and 16 have been canceled. Claim 29 is newly added.

Claim Objections

2. The objection to claims 17 and 18 is hereby withdrawn due to the amendment filed 2/13/06.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 15, 17, 23, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hay et al. (US 2002/0059091 A1) in view of Remley et al. (US 2002/0023052 A1).

(A) Referring to claim 15, Hay discloses a computer-assisted method of providing agricultural marketing services comprising (para. 58 and para. 39 of Hay):

developing agricultural marketing plans for agricultural producers requiring updated marketing information (para. 108 and para. 118 of Hay);

electronically providing marketing information to the agricultural producers in order to update the agricultural marketing plans (para. 64 and para. 65 of Hay);

wherein the step of developing agricultural marketing plans for each of the agricultural producers comprises

(a) eliciting information from the producer (para. 62 of Hay);

(b) performing a financial assessment for an agricultural enterprise of the producer (para. 52 of Hay);

(c) determining a financial assessment score based on the financial assessment (para. 51 and para. 52 of Hay; the Examiner interprets "factor" to be a form of "score");

(d) calculating a marketing financial risk score wherein the marketing financial risk score is defined as a numeric value describing financial risks related to markets and income of the agricultural enterprise (para. 52 of Hay);

(e) determining pre-sell quantities using the financial assessment score, the marketing financial risk score and a price risk associated with a commodity market (para. 62, para. 68, para. 118, para. 113, and para. 52 of Hay);

Hay does not disclose tying financial obligations of the agricultural producers to the use of the agricultural marketing plans such that the agricultural producers are required to commit to using the agricultural marketing plans as a condition for receiving financing; wherein the updated marketing information comprises probabilities of price targets; and (f) calculating a level of crop revenue insurance to assure a predetermined

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level of income from sale of predetermined pre-sell quantities of crops for use in meeting the financial obligations, such that the financing is underwritten by pre-selling and the pre-selling is underwritten by the level of crop insurance.

Remley discloses tying financial obligations of the agricultural producers to the use of the agricultural marketing plans such that the agricultural producers are required to commit to using the agricultural marketing plans as a condition for receiving financing (para. 7 and para. 41 of Remley); wherein the updated marketing information comprises probabilities of price targets (para. 5 of Remley); and (f) calculating a level of crop revenue insurance to assure a predetermined level of income from sale of predetermined pre-sell quantities of crops for use in meeting the financial obligations, such that the financing is underwritten by pre-selling and the pre-selling is underwritten by the level of crop insurance (para. 3, para. 4, para. 40, and para 41 of Remley).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Remley within Hay. The motivation for doing so would have been for the guarantor and the producer to both benefit from the arrangement and to reduce the risks associated with the agriculture business (para. 4 of Remley).

(B) Referring to claim 17, Hay discloses a computer-assisted method of creating a strategic agricultural marketing plan for an agricultural enterprise comprising (para. 58 and para. 39 of Hay):

eliciting information from a producer (para. 62 of Hay);

performing a financial assessment of the agricultural enterprise (para. 52 of Hay);

determining a financial assessment score based on the financial assessment (para. 51 and para. 52 of Hay);

calculating a marketing financial risk score wherein the marketing financial risk score is defined as a numeric value describing financial assessment factors associated with financial risks related to markets and income of the agricultural enterprise (para. 52 of Hay);

receiving a price risk from a marketing service, wherein the price risk is a price risk of a commodity market and is determined based on a computer analysis (para. 118 and Fig. 2 of Hay); and

determining pre-sell quantities using the financial assessment score, the marketing financial risk score and the price risk of the commodity market (para. 62, para. 68, para. 118, para. 113, and para. 52 of Hay).

Hay does not disclose calculating a level of crop revenue insurance to assure at least a predetermined level of income from sale of predetermined pre-sell quantities of crops, thereby underwriting the predetermined level of income by pre-selling and underwriting the pre-selling by the level of crop revenue insurance.

Remley discloses calculating a level of crop revenue insurance to assure at least a predetermined level of income from sale of predetermined pre-sell quantities of crops, thereby underwriting the predetermined level of income by pre-selling and underwriting the pre-selling by the level of crop revenue insurance (para. 3, para. 4, para. 40, and para. 41 of Remley).

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At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Remley within Hay. The motivation for doing so would have been to reduce the risks associated with the agriculture business (para. 4 of Remley).

(C) Referring to claim 23, Hay discloses computing a marketing financial risk (para. 51 and para. 52 of Hay). Hay does not expressly teach the specific data recited in claim 23; however, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.

Further, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the computing parameters disclosed in the prior art to include similar parameters with the motivation of accommodating user preferences in prioritizing the type of weighted averages to be computed.

(D) Referring to claim 29, Hay discloses a computer-assisted method of creating a strategic agricultural marketing plan for an agricultural enterprise, comprising (para. 58 and para. 39 of Hay):

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determining a financial assessment score for the agricultural enterprise (para. 51 and para. 52 of Hay)

determining a marketing financial risk score for the agricultural enterprise, the marketing financial risk score associated with financial risks related to markets and income of the agricultural enterprise (para. 52 of Hay)

receiving a price risk from a marketing service, wherein the price risk is a price risk associated with a commodity market and is determined using a computer analysis (para. 118 and Fig. 2 of Hay)

determining pre-sell quantities of crops for pre-selling for the agricultural enterprise (para. 65 and para. 104 of Hay).

Hay does not disclose determining a level of assured income for the agricultural enterprise and calculating a level of crop revenue insurance for the agricultural enterprise to protect revenue generated from pre-selling, thereby underwriting the pre-selling with the crop revenue insurance and underwriting the assured income with the pre-selling.

Remley discloses determining a level of assured income for the agricultural enterprise and calculating a level of crop revenue insurance for the agricultural enterprise to protect revenue generated from pre-selling, thereby underwriting the pre-selling with the crop revenue insurance and underwriting the assured income with the pre-selling (para. 3, para. 4, para. 40, and para. 41 of Remley).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Remley within Hay. The

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motivation for doing so would have been to reduce the risks associated with the agriculture business (para. 4 of Remley).

5. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Remley et al. (US 2002/0023052 A1) in view of Hay et al. (US 2002/0059091 A1). (A) Referring to claim 18, Remley discloses a method of providing assured income for agricultural crops comprising (see abstract of Remley):

underwriting financing of a producer of the agricultural crops by developing a strategic marketing plan for the producer which provides the assured income based on a minimum level of crop yield and a predetermined minimum crop price achieved by pre-selling (para. 5, para. 6, and para. 7 of Remley), underwriting the strategic marketing plan with crop insurance to assure the minimum level of crop to be sold (para. 3 and para. 7 of Remley); and

implementing the updated strategic marketing plan to capture additional income beyond the assured income (para. 36 of Remley).

Remley does not disclose the developing of the strategic marketing plan including determination of a financial assessment score associated with the producer and a marketing financial risk score defining financial risks related to markets and income of the producer to assist in determining the assured income for the producer and updating the strategic marketing plan with electronically supplied updated marketing information.

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Hay discloses the developing of the strategic marketing plan including determination of a financial assessment score associated with the producer and a marketing financial risk score defining financial risks related to markets and income of the producer to assist in determining the assured income for the producer and updating the strategic marketing plan with electronically supplied updated marketing information (para. 51, para. 52, and para. 64 of Hay).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Hay within Remley. The motivation for doing so would have been to identify risk factors associated with the farm of interest (para. 51 of Hay).

(B) Referring to claim 19, Remley discloses wherein the financing is provided to a producer conditioned on use of the strategic marketing plan (para. 35 and para. 41 of Remley).

6. Claims 20, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hay et al. (US 2002/0059091 A1) in view of Remley et al. (US 2002/0023052 A1), and further in view of Friedman ("Dictionary of Business Terms").

(A) Referring to claims 20 and 21, Hay and Remley do not disclose computing a numeric weighted average and wherein the weighted average includes a weighted Z-factor.

Friedman discloses a weighted Z score (p. 757 of Friedman).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Friedman within Hay and Remley. The motivation for doing so would have been to predict future outcomes.

(B) Referring to claim 22, Hay, Remley, and Friedman do not expressly disclose a weighted marginal income rate. However, it would have been obvious to a person of ordinary skill in the art at the time of the invention to include the rate for the motivation of determining the financial risks associated with the enterprise.

7. Claims 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hay et al. (US 2002/0059091 A1) in view of Remley et al. (US 2002/0023052 A1), and further in view of Schneider (US 6,990,459 B2).

(A) Referring to claim 24, Hay and Remley do not expressly disclose wherein the step of calculating the level of crop revenue insurance comprises eliciting crop production information concerning the agricultural enterprise; eliciting debt obligations of the agricultural enterprise; and selecting a crop revenue insurance level greater than the debt obligations to provide a best level of crop revenue insurance and thereby underwriting financing to the producer by the marketing plan and underwriting the marketing plan by the best level of crop revenue insurance.

Schneider discloses wherein the step of calculating the level of crop revenue insurance comprises eliciting crop production information concerning the agricultural enterprise; eliciting debt obligations of the agricultural enterprise; and selecting a crop revenue insurance level greater than the debt obligations to provide a best level of crop

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revenue insurance and thereby underwriting financing to the producer by the marketing plan and underwriting the marketing plan by the best level of crop revenue insurance (col. 2, lines 8-39, col. 3, lines 42-50, col. 4, line 62 – col. 5, line 14, and col. 5, lines 31-44 of Schneider).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Schneider within Hay and Remley. The motivation for doing so would have been to assist farmers with their planning decisions in the context of the farmer's overall risk profile (col. 4, lines 62-65 of Schneider).

(B) Referring to claim 25, Hay and Remley do not expressly disclose wherein the step of calculating the level of crop insurance includes a computer program, a displayable output for the crop revenue insurance level that provides the best crop insurance coverage level most likely to produce the most revenue; and a calculation component capable of receiving the inputs and performing mathematical operations on the inputs to produce the output.

Schneider teaches wherein the step of calculating the level of crop insurance includes a computer program, a displayable output for the crop revenue insurance level that provides the best crop insurance coverage level most likely to produce the most revenue; and a calculation component capable of receiving the inputs and performing mathematical operations on the inputs to produce the output (col. 5, lines 2-23, col. 2, line 64 – col. 3, line 6, Fig. 2, and col. 5, line 66 – col. 6, line 15 of Schneider).

Schneider does not expressly teach the specific data recited in claim 25; however,

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these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.

Further, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the calculation parameters disclosed in the prior art to include similar input parameters with the motivation of accommodating user preferences in prioritizing the type of inputs utilized.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Schneider within Hay and Remley. The motivation for doing so would have been to obtain the optimal farm management plan for a particular farmer (col. 3, lines 48-51 of Schneider).

(C) Referring to claim 26, Hay discloses wherein the computer program further comprises a type of crop input (para. 33 and para. 62 of Hay).

(D) Referring to claims 27 and 28, Hay teaches a computer program and calculation component that receives inputs (para. 33 and para. 62 of Hay). Hay does not expressly teach the specific data recited in claims 27 and 28; however, these differences are only found in the non-functional descriptive material and are not functionally involved in the

steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.

Further, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the calculation parameters disclosed in the prior art to include similar input parameters with the motivation of accommodating user preferences in prioritizing the type of inputs utilized.

Response to Arguments

8. Applicant's arguments with respect to claims 15, 17-20, and 22-28 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's arguments filed 2/13/06 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 2/13/06.

(1) Applicant argues at page 15 that the Examiner fails to appreciate or address the significant difference between a Z-factor in the manufacturing context as disclosed by Friedman and the agricultural context. In particular, the Examiner indicates that Friedman discloses the same equation. This is simply not correct. The Examiner is

asked to review Friedman again. Note that although the same constants are present, the variables are defined differently.

(A) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the variables are defined differently) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches insights from the crop insurance reform act of 1994 (Agribusiness, Vol. 13, No. 6). Also included is provisional application 60/226,857, which is a priority document to Schneider (US 6,990,459 B2).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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5-12-06


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER